

# **Sales Tax Exemption for Vending Machine Sales**

## **Utah Code Sections**

### **1. Utah Code Subsection 59-12-104 (3):**

The following sales and uses are exempt from the taxes imposed by this chapter:

- (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
  - (i) the proceeds of each sale do not exceed \$1; and
  - (ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and
- (b) Subsection (3)(a) applies to:
  - (i) food and food ingredients; or
  - (ii) prepared food;

### **2. Utah Code Annotated Subsection 59-12-102 (42) and (78):**

- (42) (a) "Food and food ingredients" means substances:
  - (i) regardless of whether the substances are in:
    - (A) liquid form;
    - (B) concentrated form;
    - (C) solid form;
    - (D) frozen form;
    - (E) dried form; or
    - (F) dehydrated form; and
  - (ii) that are:
    - (A) sold for:
      - (I) ingestion by humans; or
      - (II) chewing by humans; and
    - (B) consumed for the substance's:
      - (I) taste; or
      - (II) nutritional value.
- (b) "Food and food ingredients" includes an item described in Subsection (78)(b)(iii).
- (c) "Food and food ingredients" does not include:
  - (i) an alcoholic beverage;
  - (ii) tobacco; or
  - (iii) prepared food.

- (78) (a) "Prepared food" means:
- (i) food:
    - (A) sold in a heated state; or
    - (B) heated by a seller;
  - (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
  - (iii) except as provided in Subsection (78)(c), food sold with an eating utensil provided by the seller, including a:
    - (A) plate;
    - (B) knife;
    - (C) fork;
    - (D) spoon;
    - (E) glass;
    - (F) cup;
    - (G) napkin; or
    - (H) straw.
- (b) "Prepared food" does not include:
- (i) food that a seller only:
    - (A) cuts;
    - (B) repackages; or
    - (C) pasteurizes; or
  - (ii) (A) the following:
    - (I) raw egg;
    - (II) raw fish;
    - (III) raw meat;
    - (IV) raw poultry; or
    - (V) a food containing an item described in Subsections (78)(b)(ii)(A)(I) through (IV);
- and
- (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (78)(b)(ii)(A) to prevent food borne illness; or
  - (iii) the following if sold without eating utensils provided by the seller:
    - (A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;
    - (B) food and food ingredients sold in an unheated state:
      - (I) by weight or volume; and
      - (II) as a single item; or
      - (C) a bakery item, including:

- (I) a bagel;
- (II) a bar;
- (III) a biscuit;
- (IV) bread;
- (V) a bun;
- (VI) a cake;
- (VII) a cookie;
- (VIII) a croissant;
- (IX) a danish;
- (X) a donut;
- (XI) a muffin;
- (XII) a pastry;
- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

(c) Notwithstanding Subsection (78)(a)(iii), an eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.